

COMMISSIONERS APPROVAL

LUND 

THOMPSON 

CHILCOTT 

TAYLOR (Clerk & Recorder)

Date.....January 17, 2006

Members Commissioner Greg Chilcott,
Commissioner Betty Lund and Commissioner Alan Thompson

Minutes: Glenda Wiles

The Board met with Steve Euker in regard to a denial letter he received for a boundary line modification. Present with Steve was Terry Nelson of Applebury Survey. Also present was Clerk & Recorder Nedra Taylor and Plat Room Staff Linda Biesel and Civil Counsel James McCubbin.

Steve stated he has 122 acres and he wants to create a five-acre lot that would border the road. This would move the line to one parcel that is 80 acres into a 75-acre parcel. Terry stated the driveway currently goes through two of the parcels and this 5-acre lot would move the drive away from one of the parcels.

James stated he visited with the Clerk & Recorder about this request. Any shift to this much of a degree would not be consistent with the recent District Court Judge's opinion. James felt the court would not see this as an allowable exemption.

Terry stated even the new interpretation allows improvements to be put on a property, and in this case the road is the issue. Size is one of the criteria and the access to his property is certainly an improvement. Terry felt this decision has not gone through all the criteria, but even if it were to go through the criteria, it should be approved.

James asked if sale of the new parcel is contemplated. Steve stated it is.

Terry stated he is starting with two parcels and ending with one parcel. Terry also felt the regulations specify what could be an evasion, along with the list of the review criteria such as past history, amount of acreage, etc. He stated the fact that Steve might sell this parcel 'is not part of the regulations or part of the criteria'.

Commissioner Chilcott stated they have had this discussion in the past many times with Terry. He stated the public has a right to participate. Taking a 40-acre lot and turning it

into a five-acre parcel warrants public discussion. Terry stated this meeting was noticed as a public meeting and no members of the public chose to attend.

Steve stated to the east of this area there are several different lots and next to this five-acre piece he would like to create is a 6-acre parcel. Steve stated this piece is saleable as it is.

Now present was Planner Karen Hughes, who said the exemption was denied because it was a considerable change in parcel size, one being much smaller in size.

Terry asked if the sale of the property was part of the criteria. Commissioner Thompson stated the sale of a parcel is an evasion as this parcel is being created for that purpose. He stated the applicant could change the boundary, and then come back for an expedited review.

Terry stated an expedited review would cost \$500,000 because he would have to pave too many roads. Steve stated he understands Judge Langton's decision is interpreted differently than other counties around Ravalli County.

Commissioner Chilcott stated they want to follow the law of both Judge Langton and Judge Haynes. It seems prudent to the Board to protect the taxpayer from any lawsuits that could come forward. Steve asked what the gain is from following those interpretations. Commissioner Chilcott said the public has a right to participate in any issue that may affect property values in their neighborhood. Steve asked if the general public would agree with the Judge's decision. Commissioner Chilcott stated he is only saying that the public has the right to participate, not that they agree or disagree with the Judge's decision, but simply that they have that right.

Terry asked if that opinion overrides State law.

James stated the Judges went out of their way to make sure their interpretation of the law is known so the county can follow the law. And this application is clearly not following the law.

Terry asked who could be sued in this case, the Clerk and Recorder, Planning, or Commissioners. James stated they could name Ravalli County in general.

Steve asked what particular criteria were utilized in the denial. He stated there is no history on his part to evade the subdivision regulations. There is no false information he has presented. The only thing he sees is the percentage of land that has been split.

Deputy Clerk & Recorder Linda Biesel stated they utilize the criteria for their review, which was a denial in this case. She stated their application takes a large piece and splits it into smaller pieces, making it available for subdivision.

Steve asked why the other area is any more favorable for subdivision. There are two miles of gravel road that he would have to deal with. He is only taking the one large parcel and making it much smaller.

Commissioner Lund stated she disagrees with the denial. She stated Steve is only creating a smaller lot. She asked; "what is the impact of the lot", and felt nothing has been changed in regard to the road. She stated the court case in Missoula County has nothing to do with Ravalli County's land.

Steve asked if he were to create a 20-acre parcel would that change anything. James stated he could not make that interpretation without an application. Terry stated they do not know what the rules are. Everything is different each and every time.

Commissioner Chilcott stated they have had this discussion several times and each time Terry acts like he does not know what is going on. Commissioner Chilcott stated each application must be reviewed on its own merits. Terry stated they have no criteria. Steve stated the public has the right to know what the criterion is so they do not spend any money in this application process. Commissioner Chilcott stated it is their responsibility to follow the law.

Steve stated in light of the denial, the criteria should be more firmly established prior to any choices. He stated the county is still working through the criteria and the applicant is caught in the middle. Commissioner Chilcott stated each property is unique and needs to be reviewed under the criteria.

Commissioner Lund stated one of the Judge's criteria was the lot accessing onto a road. This change does not impact the road. Commissioner Thompson stated the applicant already stated he has a saleable piece of property. Commissioner Lund stated the applicant already has a saleable piece of property, it does not impact the road and there are smaller pieces of property in the area.

Terry asked if County Attorney George Corn has weighed in on this issue. Nedra stated the list of five criteria is what George has given to them. James stated the memo that George wrote clarifies the regulations; it does not change the relevant factors that are being considered. Terry stated an awful lot of review goes into something that State law says is exempt from review. James stated State law and Attorney General's opinion allows for that review.

Steve asked about the fifth criteria. Terry stated they are saying after they review it you might not be able to build on the lot. Terry asked when the Clerk & Recorder expects an answer. James stated they will begin the deliberation of the evasion criteria with an applicant; it will be noticed as public meetings, rather than a staff report. He stated they are not sure the Commissioners need to be involved in that process at that point. The subdivision regulations indicate that is how it needs to be done.

Nedra stated she would review this information presented today and will hopefully come back for a final decision the week of January 23rd.

Steve stated he agrees with Commissioner Lund. He feels this is creating much more work than what needs to be done. This does not create an evasion if they are creating one lot for one lot. There may be cases where a neighbor is affected and those individual cases should be reviewed when they arise. There is no reason to start a whole new process, which is a great deal of work, like a subdivision process.

Karen stated all of the pending applications would be held in a public meeting. The denials that have already been heard can be discussed again, or another letter can be sent out. James stated if they deliberate about the facts, then the meeting must be a public meeting.

In other business, the Board met with Mr. and Mrs. Hendrickson for a review of the process of the voluntary zoning district in their neighborhood. This district would be named the Rippling Woods Voluntary Zoning District in the Victor area north of Big Creek. They have over 80% of the neighbors who are in favor of this district. The information/application has been given to the planning staff. The residents would like to add a covenant that reads none of the parcels would be able to be subdivided or split. Commissioner Lund stated this area is not a subdivision; it is a Certificate of Survey that was named.

Karen stated they need guidance on the actual application that has been submitted. Do the Commissioners want them to insert this application in the same order as the list of projects they are working on (i.e.: subdivision applications)? And they need to know if there is a valid Planning and Zoning Commission, which is a seven-member board with two citizen members. While the Commissioners take the first action, such as the Resolution to establish the district, the second part of the establishment of a district relies on a Planning and Zoning Board.

Commissioner Lund asked Karen what planning staff's involvement was. Karen stated they put the application together, give advice to the Commissioners in light of the regulations for enforcement, and help facilitate the meetings. The Commissioners may decide they do not want planning staff to become involved. Commissioner Lund asked if the restrictive covenants, plus the one 'no split', are what they are doing. Karen stated that was correct and the boundaries have been established with the Clerk and Recorder verifying this. The Commissioners establish the district, the Zoning Commission works on the regulations within the district, and the Commissioners have final review. Karen stated Planning has taken on the role of the overall review with advice from the County Attorney's Office.

James stated the first step is important, as it reduces any future questions on the regulations and enforcement. The more urgent question is the status of the Planning and Zoning Commission, which by law must exist. The Board consists of County

Commissioners, the County Surveyor (who is the Treasurer), two citizens and one County official appointed by the Commissioners.

Commissioner Thompson stated the previous Commission did not include any citizens. The law changed in 2001 and now citizens are needed to sit on this Commission. The Board did not move forward, as no one responded to the advertisement. He felt the application should be treated separately from the list of subdivisions. Commissioner Lund concurred to go to the top of the heap as they encourage people to develop these zoning districts. Commissioner Chilcott stated his concern is a person in the proposed district wants to develop a subdivision; then if the district gets priority over that, it might create a legal problem. James concurred. He advised Karen to see if there were any applications.

Mr. Hendrickson stated years ago they developed a Homeowners' Association for road maintenance. The neighbors all want to preserve what happens in their area. He was asked to look into adding the one covenant not allowing any further subdivision; however, after they continued, the neighbors decided to move forward with the zoning district because it allows the County the ability to enforce, rather than a civil issue. Mr. Hendrickson stated the residents want this and most of them continually ask what is happening.

Commissioner Chilcott stated the County should come up with a policy so they do not have any potential problems. Commissioner Lund stated if there is nothing in the application piles today, such as an application received, they should move forward. Commissioner Chilcott stated he simply wants to make sure the process is established, making sure no one within the area is in the middle of a subdivision, and that the application of a voluntary zoning district takes precedent.

Karen stated assuming there is no resident applying for a subdivision; they should process this application promptly. If they have received a subdivision application in that area, then we need to review it with the Commissioners. Otherwise, they will push it to the top of the pile. The Commissioners concurred. James stated the trigger would be the date the application is received.

Mrs. Hendrickson stated every neighbor agrees to the zoning district, and it has taken two years to get to this stage. Mr. Hendrickson agreed.

Karen stated the next step is for the Commissioners to hold a meeting with the protest period of 30 days. The two citizen members must live in two existing zoning districts. James stated he recommends a Resolution to reform the Planning and Zoning Commission. He stated it is the Commissioners' discretion if they want to put a notice for 30-days on the appointment or appoint, since this is unique, due to the requirements of the citizens living in a district.

It was agreed that the agenda notice of today is not enough information to create the boundaries of this district.

It was agreed to hold a 1:30 p.m. meeting this Thursday for a Resolution to reinstate the Ravalli County Planning and Zoning Commission and a Resolution to create the district boundaries of the Ripple Woods Voluntary Zoning District.

In other business the Board reviewed the following administrative matters:

Commissioner Lund made a motion to approve the minutes of August 29th through September 23rd with corrections. Commissioner Thompson seconded the motion and all voted "aye"

Commissioner Thompson made a motion to appoint Commissioner Lund as the County representative to the City of Hamilton Planning Board. Commissioner Chilcott seconded the motion and all voted "aye".

The Board discussed the open positions on the Planning Board, which are the Darby School District position and the At-Large position. Commissioner Thompson made a motion to appoint Gary Shook to the Planning Board, representing the Darby School District, replacing Hattie Gibson (term ending Dec 31, 2006). Commissioner Lund seconded the motion and all voted "aye".

Commissioner Lund made a motion to appoint Bill Swendsen to the At-Large position of the Ravalli County Planning Board (term ending Dec 31, 2007). Commissioner Thompson seconded the motion. All voted "aye".

Commissioner Thompson made a motion, based on the recommendation of the Planning Staff, to grant final approval to the Wildflower Subdivision. Commissioner Chilcott seconded the motion and all voted "aye". Commissioner Lund was not present for this vote.

The Board signed several Employee Action Forms.

The Board met with Engineer Mike Jensen and numerous residents of the proposed Joslyn Bridge RSID located off West Fork Road. Mike stated they have taken a two-phase approach to their design. They wanted some preliminary figures prior to proceeding. They are still 'tweaking' some things and in the mean time he wanted to find out the next phase of the process. He also stated they have a bridge layout, width, etc., and if there are any issues now is the time to have that figured out. Glenda gave some background, costs incurred this date for Mike and being rolled over into the resolution and time frame for the stuff that the Forest Service needs. There were some questions on easement to bridge and the change in the approach to the bridge. Commissioner Chilcott asked if there is anything the County needs to address on the access point. Commissioner Thompson stated our issue is the flood plain, RSID. The issue is the private easement or land that goes from the West Fork Road to the entry on the bridge. Connie will check with the Forest Service as Commissioner Lund thought this might be a Forest Service

easement. Mike stated the bridge they will be utilizing will be narrower than the current ASTHOW standards, but this is a private bridge.

The question is the easement from West Fork Road or any access permits from West Fork Road, since the point will change by 30' or so. The actual bridge design is the Engineer's decision. Commissioner Chilcott thought the Road Supervisor should weigh in, but agreed this is private and not subject to the county bridge standards. Connie stated she will check with the Forest Service and State in regard to the piece that goes from the actual road to the section of land that takes the vehicles to the bridge.

One of the residents asked about the County administration fee of 6%. Glenda will visit with Mae Nan again about easement, the bridge design meeting County standards, and any administration and bonding fees.

Torri Nobles, Marsha Wallaser and Attorney Curtis Cook were now present to see what the decision was on the final approval of the Wildflower Subdivision. Commissioner Chilcott explained they already took the action because Tuesdays and Thursdays are public meeting days and the calendar can flow from one item to the next. Torri stated the Commissioners took action without public input and the issues have not been corrected. Commissioner Chilcott stated this was a ministerial decision, based on Planning Staff's recommendation. They would certainly open up this issue to public comment and if they have something that needs to be addressed, to please do so now.

Torri stated they (the developer) are working on the wells. Torri stated she has asked the Sanitation Office about this issue but they did not want to get involved. She stated the preliminary plat approval has not been met. Planning staff Karen Hughes and Ben Howell were now present.

Commissioner Chilcott asked what issues they have specifically. Torri said there are no school bus signs. Karen asked for specifics. Torri said her concerns are the following: there are no school bus signs, the well is being pumped into the irrigation ditch, is the agreement between the School District and Chip Pigman complete for the contribution and is the pro rata share payment been made. Karen noted the pro rata share had been paid and according to Ben the school bus signs are there. The only remaining question is condition no. 8, which addresses the water issue. Marsha stated they have been pumping the water into the ditch for several days, and the Sanitarian stated they have nothing noted in their office. Karen stated she will need to review this issue of condition no. 8, but the applicant has shown diligence on the other issues. She stated if the Commissioners want the staff to double-check this information they will be happy to do so.

Attorney Cook was concerned this was on the agenda at 11:00, but done earlier. Glenda explained the Tuesday and Thursday public meeting agenda and the ability to flow from one subject to another and that all times are approximate. Attorney Cook addressed the Constitution and allowing public comment. Commissioner Chilcott stated they are following the law when it comes to public and open meetings. Commissioner Chilcott stated the open meeting is quite different from the Wildflower issue. Commissioner

Chilcott stated they have opened this issue up to public comment; and they will address those concerns. Attorney Curtis stated when you have it advertised for a particular time they should stick with that time.

Commissioner Thompson asked about the water supply source for fire protection. Karen stated this is specific for water supply source. Commissioner Thompson asked that the Planning staff makes sure the memo they sent to the Commissioners is correct. Karen will double check the issues and get back to the Commissioners. Glenda will call Marsha and advise her of the Planning Staff report to the Commissioners.

The Board also discussed the contract with First Interstate Bank in regard to the naming rights of the Event Pavilion at the Fairgrounds. Commissioner Lund reviewed the contract with Monte Drake. She stated their Civil Counsel should review this contract as re-worded after today's discussion with Monte. This meeting will be continued until Thursday at 3:00 p.m.

Commissioner Lund attended a JSEC meeting during the noon hour.

The Board met to discuss the remodel of the courthouse. County staff members included Maintenance, Public Health Director Judy Griffin, Justices of the Peace Robin Clute and Jim Bailey, DES Coordinator Ron Nicholas, DES Assistant Eric Hoover, I.T. Director Joe Frolich, Sheriff's Administrative Assistant Wanda Lorea, Sheriff Hoffman, and Under Sheriff McConnell. Also present was General Contractor Earl Jones.

Ron stated several department heads were not sure who was moving into what space, costs and who was paying for the cost of relocation. Ron stated there would be some costs incurred in the actual move that they need to discuss.

Brian stated they have moved from the shop area and are now in the basement in the employee lounge (which is also utilized as the E.O.C), which they like. They need to move some copy paper to the fourth floor storage room. Ron stated his plans are to make the new E.O.C. into the old data entry office. The shortcomings would be demonstrated in an emergency; they would need to move the phone lines into the Elections Room to be utilized as a larger operations center. Sheriff Hoffman felt the data entry room is good size and should accommodate most events. In a major event, they would need to relocate into the Elections Room. Ron also expressed concern about the public health television and satellite. This is used for training. Sheriff Hoffman stated they would not need the current space that the Reserves are utilizing. Ron stated if the Reserves are left where they are, it would leave more space available upstairs.

Discussion included putting the television into the election room. Judy stated she could purchase a locked shelving unit for the television.

Ron stated he understands the reason Maintenance wants to stay in the lounge area. The only issue was the plan to have the meetings in the larger room with an office next door that has meeting space and telephones for needed conversations. Ron stated the ideal

place for the DES radio equipment would be on the west wall in the data entry, rather than in Wanda's current office. Relocating the radio will cost some money. Sheriff Hoffman stated the conduit should be there, as that was the location of the previous 9-1-1 Dispatch room. Ron stated that cost should be around \$500.00.

Commissioner Thompson stated maintenance should consolidate their equipment into the lounge area. In regard to the television in the election room, he prefers to have the television secured in a locked cabinet.

Joe stated I.S. has to move the power strip into Darcie's area. That will cost approximately \$200.00. They also need to run the cabling, which will cost \$200 or so.

Sheriff Hoffman relayed he was asked this a.m. about the painting that needs to be done in the old Extension Office and I.T. Offices. Under Sheriff McConnell stated Earl's plans are working out well. Earl addressed the wall that will be in Wanda's office. The paneling will be moved to create a separate office for Wanda, leaving the other space for copying and case files.

Earl stated when the new remodel occurs on the second floor, he prefers to do the painting. Employees can paint the basement area and the bills for the paint need to be submitted to Glenda.

Earl addressed the remodel on the main floor and the time frame for that remodel. It was noted a handicapped person will need to enter through the main north door and will have to access through the Sheriff's lobby. Due to the weather window, the change on the north side employee entrance will have to wait.

In other business the Board met with members of the Planning and GIS Departments. Present was Ken Miller, Mike Snook, Karen Hughes, Renee Van Hoven and Laura Hendrix. Commissioner Lund stated they have appointed Karen as the Interim Director of Planning during Patrick's leave of absence. Karen stated she understands the benefit of having GIS be a stand-alone department. However, there are some difficulties in separating GIS from Planning, particularly in the middle of the budget year. Karen stated the Planning Office would support GIS during this transition. Commissioner Lund stated Commissioner Chilcott is leaning toward splitting this office out as of July 1st; however, she does not see the accounting issue as a 'real problem' that could not be worked through. Karen stated GIS is an integral part of Planning.

Laura stated these two budgets are integrated. Commissioner Lund stated it is difficult to see any splits in the current budget. Ken stated both he and Laura visited about the monies needed to run the GIS department. Laura stated she would prefer to have the GIS start a new budget for the Fiscal Year 2007. In the meantime, the Planning Department and the GIS can work through the budget issues. Commissioner Lund stated Ken is now the director of GIS, through an Employee Action Form signed this morning, and if the budgets are not split at this time, he will need to work with Planning, instead of being in charge of his own budget.

Ken stated there are no major purchases that are needed. He indicated the need for a printer and was not sure if that was included in the current 2006 budget. Laura did not think it was. Ken felt it would be easier to wait until July 1st in order to split the budget. Ken stated he has a State project he is working on, and there would be some monies coming in from the State for a surveyor. He has no problem having that money placed in the planning fund.

Commissioner Lund asked about the money that comes from the recording; \$.25 stays with the county, \$.75 goes to the state. Clerk and Recorder Nedra Taylor was now present and she felt the \$.25 needs to be utilized for GIS mapping, etc. Commissioner Lund stated the \$.75 that is sent to the State could be requisitioned for GIS grants. The State has gotten \$21,000.00 from our recording fees. The County has \$6,000 in those recording fees. Karen stated they are sharing the plotter, and since GIS has moved down stairs, they would need to duplicate that equipment. Commissioner Lund advised Ken to contact the State and see how we can apply for those funds.

At this time they need to address the creation of the GIS as a stand-alone department. Public comment was called for. Joe and Nedra both stated this makes sense to separate the departments.

Commissioner Thompson made a motion to create a new department, Geographical Information Systems (GIS), under the authority of the Commissioners, and make a separate budget, effective July 1, 2006. Commissioner Lund seconded the motion and all voted "aye".

The Board made a site visit to the Ravalli Farm Block 3, Lot 6 AP.